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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,683	08/19/2003	Robert A. Dunstan	110349-133957	6454

25943 7590 04/19/2007
SCHWABE, WILLIAMSON & WYATT, P.C.
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EXAMINER

RUTLAND WALLIS, MICHAEL

ART UNIT	PAPER NUMBER
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2836

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/19/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No. 10/644,683	Applicant(s) DUNSTAN, ROBERT A.	
	Examiner Michael Rutland-Wallis	Art Unit 2836	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6,9-20 and 23-38 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-6,9-20 and 23-38 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 August 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 02/21/2007 has been entered.

Response to Arguments

Applicant's arguments with respect to the currently pending claims have been considered but are moot in view of the new grounds of rejection.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 15 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas (U.S. Pat. No. 6,601,181) in view of Schelling (U.S. Pat. No. 6,954,864)

With respect to claims 1, 15 and 30 Thomas teaches in an apparatus (computer), a method of operation comprising: powering the apparatus from a backup power source (backup battery unit item 214 also see switch step 524), in response to the apparatus being in an AC absence condition (blackout/brownout col. 6 lines 30-35); initiating by an Operating System (item 306 see specifically Advanced Power Management or Advanced Configuration and Power systems described in col. 6 lines 10-23) of the apparatus in response to the apparatus being in the AC absence condition, a suspend to memory process (suspend to RAM state col. 6 lines 45-50) to place the apparatus in a suspended to memory state; wherein an in an operational state of the apparatus is saved to volatile memory (RAM see col. 6 lines 45) requiring a source of electrical power to sustain the suspended to memory state and wherein no further activity occurs while the apparatus is in the suspended to memory state including suspension of all data transmissions; and, a BIOS (item 302) of the apparatus upon the initiation of the suspend to memory process, a timer (step 558) to initiate waking up of the apparatus after a period of time and to facilitate shutting off the backup power (Thomas teaches the timer waits a period of time after normal power returns then supplies power form the AC line instead of supplying power from the battery and charges the battery if necessary). Thomas dose not teach structural nature of the BIOS or that the BIOS sets the timer. The BIOS typically contains a set of routines stored on a chip to provide an interface between the OS and the connected hardware and peripheral. Schelling

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teaches a system to transition computer power operational states where Schelling points out (paragraph 0046) a timer may be initiated by BIOS in order to actuate a stored time within BIOS. It would have been obvious to one of ordinary skill in the art at the time of the invention to use clock or timer set by the BIOS as means of carrying out the timer step shown in Thomas in order to provide a means to set or configure the timing step of Thomas.

With respect to claim 31 Thomas teaches a monitoring for presence or absence of AC to the power supply, and to generate a signal indicating the presence or absence of AC accordingly (see step 556).

Claims 2-6, 9-14, 16-20, 23-29 and 32-38 rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas (U.S. Pat. No. 6,601,181) in view of Schelling (U.S. Pat. No. 6,954,864) as applied to claim 1 and 15 above, and further in view of Westerinen et al. (U.S. Pat. No. 7,131,011)

With respect to claims 2-3, 16-17 and 33 Thomas as modified above teaches the timer however does not point out the timer may be real time clock. Westerinen teaches the use of BIOS to include the use of real time clock (col. 4 lines 1-20). It would have been obvious to one of ordinary skill in the art at the time of the invention to use BIOS capable of timing the period based on the time and date in order to set time delay in a clear and precise time of the day or night.

With respect to claims 4, 9, 18 and 34 Thomas teaches canceling the waking of the apparatus (col. 8 lines 35-40) if the power does not remain stable for a predetermined time period.

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With respect to claims 5, 19, 23 and 35 Thomas teaches initiating waking of the apparatus, after passing of the period of time (step 558), including as part of waking of the apparatus, a BIOS causing the backup power source to be shut off, transitioning the apparatus to an un-powered state instead (AC power returns and powers the system and charges the battery).

With respect to claim 6, 20 and 36 Thomas teaches backup power supply is shut off and made to charge is necessary while Thomas does not described this operation in detail It would have been obvious to one of ordinary skill in the art at the time of the invention to use the BIOS instruction to output a signal to the backup supply hardware to affect such control in order to maintain battery power when not needed.

With respect to claim 10 and 24 Thomas teaches the use of timer expiring after passing of the period of time (step 558); and wherein Schelling teaches companion logic (timer and timer instructions) of the timer shutting off of the backup power source, placing the apparatus in an un-powered state (see step 540 of Thomas or see save to disk mode of Thomas).

With respect to claim 11 and 37 Thomas teaches the timer shuts off the backup power source if AC remains absent (step 548).

With respect to claims 12 and 25 Thomas teaches monitoring for absence of AC (step 516) to the power supply; and generating a signal indicating AC absence on detection of absence of AC to the power supply.

With respect to claim 13 Thomas teaches the monitoring and generating are performed by the power supply.

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With respect to claims 14, 26, 28 and 38 Thomas teaches the facilitating specification to the apparatus the period of the time (i.e. setting the time period between 1 and 10 minutes).

With respect to claim 27 Thomas teaches the timer is a part of the system and nodes not point out the structural placement of the timer. It would have been obvious to one of ordinary skill in the art at the time of the invention to place time within the power supply in order to quickly control the output of power when power state changed controls are sent.

With respect to claim 29 Thomas teaches the system further comprises a networking interface (item 116).

Conclusion


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Rutland-Wallis whose telephone number is 571-272-5921. The examiner can normally be reached on Monday-Thursday 7:30AM-6:00PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Sircus can be reached on 571-272-2058. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MRW



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